

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

APR 10 2006

OFFICE OF
MANAGING DIRECTOR

Tom W. Davidson, Esq.
Akin Gump Strauss Hauer & Feld LLP
1333 New Hampshire Avenue, NW
Washington, DC 20036-1564

Re: Granite Broadcasting Corporation
Channel 11 License, Inc., KRII(TV), International
Falls, MN
FYs 2003, 2004, 2005 Regulatory Fees
Fee Control No. 0509098835427009

Dear Mr. Davidson:

This letter responds to your request dated September 27, 2005 (*Request*), filed on behalf of Granite Broadcasting Corporation (Granite) for a refund of the regulatory fees paid for Channel 11 License, Inc. (Channel 11), licensee of KRII(TV), International Falls, Minnesota, for fiscal years (FYs) 2003, 2004, and 2005. Our records reflect that Granite paid regulatory fees of \$4,625.00, \$4,050.00, and \$4,625.00 for FYs 2003, 2004, and 2005, respectively. For the reasons stated herein, we grant your request.

You recite that KRII operates as a satellite television station of KBJR(TV), Superior, Wisconsin. You state that although the station has operated as a satellite television station since 2003 (which our records confirm), "Granite has paid for KRII the annual regulatory fees in 2003, 2004, and 2005 proscribed for VHF commercial television licensees, rather than the [lower] regulatory fees required of satellite television licensees."¹ You assert that after Granite realized in 2004 that the company had submitted excessive 2003 and 2004 regulatory fees for KRII, in August of 2005, Granite contacted Warren Publishing, publisher for the 2003, 2004, and 2005 Television and Cable Factbooks, "and confirmed that KRII was mistakenly listed as a full service, commercial VHF television station in the 2003 and 2004 Factbooks, as well as the draft copy of the 2005 Factbook."² You contend that "Warren Publishing committed to amending KRII's classification for the 2005 Factbook [but,] . . . [b]ecause Granite's regulatory fee payments became due prior to the publication of the revised 2005 Factbook, Granite again submitted for 2005 the KRII regulatory fee applicable for a full service, commercial VHF station."³

¹ *Request* at 1.

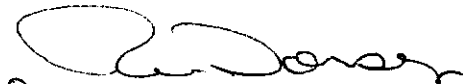
² *Id.* at n.7.

³ *Id.*

The regulatory fees for a commercial satellite station for FYs 2003, 2004, and 2005 are \$1,000.00, \$1,050.00, and \$1,075.00, respectively.⁴ Because Granite submitted regulatory fee payments for KRII of \$4,625.00, \$4,050.00, and \$4,625.00 for FYs 2003, 2004, and 2005, respectively, we find that Granite overpaid the regulatory fees for the station for those three years. Accordingly, we find that a refund is warranted for the overpayment of the regulatory fees for FYs 2003, 2004, and 2005. See C.F.R. §1.1160(a)(1).

A check made payable to the maker of the original check, and drawn in the total amount of \$10,175.00 (*i.e.*, a refund of \$3,625.00, \$3,000.00, and \$3,550.00 for FYs 2003, 2004, and 2005, respectively) will be sent to you at the earliest practicable time. If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a stylized flourish at the end.

Mark Stephens
Acting Chief Financial Officer

⁴ See 47 C.F.R. §1.1153 (2003, 2004, and 2005) (Satellite UHF/VHF Commercial, All Markets).

#3603

ORIGINAL

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September 27, 2005

RECEIVED

SEP 27 2005

Federal Communications Commission
Office of Secretary

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Dear Ms. Dortch:

Pursuant to Section 1.1160(a)(1) of the rules of the Federal Communications Commission ("Commission"), Granite Broadcasting Corporation ("Granite"),¹ payer of the annual regulatory license fees for Channel 11 License, Inc. ("Channel 11"), licensee of KRII(TV), International Falls, Minnesota ("KRII"), by its undersigned counsel and for the reasons outlined herein, respectfully requests a refund of KRII's fiscal years 2003, 2004, and 2005 regulatory fees in an amount equal to \$10,175.00.

KRII operates as a "satellite" television station of KBJR(TV), Superior, Wisconsin.² Despite operating as a satellite television station since 2003, Granite has paid for KRII the annual regulatory fees in 2003, 2004, and 2005 proscribed for VHF commercial television licensees, rather than the regulatory fees required of satellite television licensees. Accordingly, an appropriate refund request is herein requested.

FY 2003

On June 2, 2003, the Commission granted Channel 11's filed application for a license to cover the construction permit for television broadcast station KRII(TV).³ Channel 11 mistakenly submitted a payment of \$4,625.00, to cover its 2003 annual regulatory fee. That amount represents the annual regulatory fee for VHF commercial television licensees rather than the fee

¹ In accordance with Section §1.1160(a)(1) of the Commission rules, a request for a refund of fees will be issued to the "Payer" listed on FCC Form 159. Granite Broadcasting Corporation was the named payer of KRII's 2003, 2004, and 2005 regulatory fees.

² See application for construction permit for commercial broadcast station, File No. BMPCT-20020220ABA, Exhibit 35A, attached hereto as Exhibit A.

³ License File No. BLCT-20021224ACN.

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for satellite stations like KRII.⁴ Granite recently realized that a satellite television station licensee was required to pay \$1,000 in annual regulatory fees.⁵ Therefore, Granite mistakenly overpaid the Commission \$3,625.00 in regulatory fees in 2003.

FY 2004

Similarly, Granite mistakenly submitted to the FCC a payment of \$4,050.00 to cover the 2004 annual regulatory fee for KRII.⁶ The Commission's regulatory fee in 2004 for a satellite television station licensee was only \$1,050.00. Therefore, Granite mistakenly paid \$3,000 in excessive regulatory fees to the Commission in 2004.

FY 2005

Again, in 2005, Granite submitted to the FCC a payment of \$4,625.00 to compensate for the 2005 annual regulatory fee for KRII. The Commission's regulatory fee in 2005 for a satellite television station licensee was only \$1,075.00.⁷ Therefore, Granite paid \$3,550.00 in excessive regulatory fees to the Commission in 2005.

⁴ *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, Attachment G FY 2003 Schedule of Regulatory Fees, (2004) (hereinafter "Report and Order"). See Granite Broadcasting's 2003 FCC Form 159 and accompanying payment filed on behalf of KRII, a copy of which is attached hereto as Exhibit B.

⁵ *Id.*

⁶ See *Report and Order*; Granite Broadcasting's 2004 FCC Form 159 and accompanying payment filed on August 18, 2004 on behalf of KRII, a copy of which is attached hereto as Exhibit C.

⁷ In 2004, Granite realized that the company had submitted for KRII excessive 2003 and 2004 regulatory fees. Granite relied on the Commission's published Schedule of Regulatory Fees for 2003 and 2004 to make the regulatory fee submissions on behalf of KRII. See, e.g., *supra*, Footnote 4. When Granite became aware of the mistaken categorization of KRII, Granite's counsel contacted the Commission. The Commission encouraged Granite's counsel to contact Warren Publishing, the publisher for the 2003, 2004, and 2005 Television and Cable Factbooks. See, e.g., Albert Warren, *TELEVISION AND CABLE FACTBOOK 2004* (Warren Communications News 2004). In August of 2005, counsel for Granite contacted Warren Publishing and confirmed that KRII was mistakenly listed as a full service, commercial VHF television station in the 2003 and 2004 Factbooks, as well as the draft copy of the 2005 Factbook. Warren Publishing committed to amending KRII's classification for the 2005 Factbook publication based on a review of the KRII license on file with the Commission. However, the 2005 Factbook will not be available for publication until December 2005. Because Granite's regulatory fee payments became due prior to the publication of the revised 2005 Factbook, Granite again submitted for 2005 the KRII regulatory fee applicable for a full service, commercial VHF television station.

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Total Excessive Fees

For the 2003, 2004, and 2005, fiscal years, Granite paid the Commission a total of \$13,300.00 in regulatory fees rather than the \$3,125.00 required for satellite television stations. As a result, Granite overpaid the Commission \$10,175.00 in regulatory fees for 2003, 2004, and 2005 for KRIL.

The Commission's Rules provide for a refund of regulatory fees paid in excess of the required fee.⁸ In the event of an overpayment, the Commission issues a refund based on the licensee's entire submission.⁹ As explained above and evidenced by the attached exhibits, Granite has submitted excessive payments for regulatory fees for KRIL for fiscal years 2003, 2004, and 2005, in the total amount of \$10,175.00. Pursuant to Section 1.1160(a)(1) of the Commission Rules, Granite hereby respectfully requests a refund of such overpayment.

If you have any questions regarding this matter, please do not hesitate to contact the undersigned.

Sincerely,



Tom W. Davidson, Esq.

Enclosures

⁸ 47 C.F.R. §1.1160(a)(1).

⁹ *Id.* See Exhibit B, wherein Granite paid the Commission a total of \$4,685.00 in regulatory fees for KRIL for 2003, and Exhibit C, wherein Granite paid the Commission a total of \$4,110.00 in regulatory fees for KRIL for 2004.